

REMARKS

Reconsideration and further examination of the above-identified application are respectfully requested in view of the amendments, and the discussion that follows. Claim 1-20 are pending in this application. Claims 1, 2, 4-9, and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fedorov (U.S. Pat. No. 6,047,060) in view of Shaffer (U.S. Pat. No. 6,363,145); claim 10 further in view of Miloslavsky (U.S. Pat. No. 6,021,428); and claim 3 further in view of Beck (U.S. Pat. No. 6,138,139). Claims 11, 12, and 14-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fedorov in view of Shaffer and further in view of Eilbacher (U.S. Pat. No. 6,724,887), and claim 13 further in view of Elazar (U.S. Pat. No. 6,542,602). Claims 1, 3, 13, and 20 have been amended for clarification. After a careful review of the claims and references, it is believed that the claims are in allowable form and a Notice of Allowance is respectfully requested.

Claims 1, 2, 4-9, and 20 were rejected as being obvious over Fedorov in view of Shaffer and claims 11, 12, and 14-19 further in view of Eilbacher. Fedorov concerns a system and method to allow a supervisor to manually connect into and monitor telephone calls to and from a call center. Fedorov does not describe automatic monitoring of a data session between agent and caller, nor does Fedorov describe automatically engaging the supervisor in response to the monitoring. Shaffer describes automatic monitoring but only of voice and does not automatically engage the supervisor in response to the monitoring but requires the supervisor to select the option to establish monitoring after notification. Eilbacher describes a system for analyzing a customer communication to determine if the experience was satisfactory and Miloslavsky describes a system for routing incoming e-mails to the most appropriate agent. Neither reference teaches automatically engaging..

Independent Claims 1, 11, and 20 claim automatic monitoring of an ongoing data session between a first and second party and conferencing, joining, or engaging a third party into the ongoing transaction as an additional participant automatically in response to the automatic monitoring. The call monitoring described in Col. 5, lines 26-30 of Fedorov cited in the Office Action is manual monitoring of telephone conversations (i.e., "a supervisor at one station may monitor telephone conversations at another station"; Abstract, lines 7-8) but is not the claimed automatic monitoring or monitoring of text data sessions (e.g. made up of text messages, data messages, e-mail, etc.). Fedorov also does not teach automatically engaging the supervisor into

the data session in response to the monitoring. The claimed monitoring automatically engages, conferences, or joins the supervisor to view an ongoing data session (see page 13, lines 1-3) after the automatic monitoring has detected a need to engage the supervisor. Fedorov does not teach automatic monitoring, does not concern text data sessions and does not teach automatically conferencing or engaging the third parties (e.g. supervisor) in response to the automatic monitoring. In Fedorov, the supervisor must decide to listen in and must spend time manually “monitoring” a conversation himself without being automatically engaged in response to automatic detection of a problem by automatic monitoring. Thus, Fedorov does not disclose automatic monitoring, monitoring text data sessions, automatic engagement, or engaging in response to the automatic monitoring.

The claims call for the third party (e.g. supervisor) to be automatically engaged, joined or conferenced in response to the automatic monitoring. The Office Action concedes that Fedorov does not teach automatic monitoring and engaging but asserts that Shaffer does disclose automation. However, Shaffer monitors only voice not text or data messages (Shaffer, Col. 2, lines 25-35), and further merely notifies the supervisor but does not automatically engage the supervisor into the transaction. Instead, a notification is sent to the supervisor who then must manually select from a number of options (see Col. 6, lines 33-52).

Shaffer does not teach or suggest automatically engaging the supervisor into the transaction as a participant but instead teaches merely notifying the supervisor and presenting options that the supervisor can subsequently select. The Office Action cites Col. 4, lines 17-27 as teaching automatically engaging the supervisor. However, this passage describes automatically monitoring but says nothing about automatically engaging or conferencing the supervision into the transaction. Rather, during automatic monitoring, if a voice pattern is detected, the supervisor is notified (e.g., by a message displayed on supervisor terminal with various options to manually select, including manually choosing to monitor the call. Col. 6, lines 37-43; also see Col. 5, lines 33-35 and Col. 7, lines 48-57). The Office Action also cites Shaffer at Col. 5, lines 36-65 as disclosing automatically engaging the supervisor within the monitoring session. However, the claim calls for automatically conferencing, joining or engaging the third party into the transaction as a participant. The cited passage of Shaffer discloses automatic monitoring and the performance of some or all of that monitoring processing by the supervisor terminal (“If demand on the first agent’s terminal’s processor resources increase...the monitoring session data can be transmitted to the supervisor terminal 14 or the gateway 16 where

the monitoring session can be continued.” lines 58-65). This merely describes the automatic monitoring and using the supervisor terminal computer or the gateway computer to do some or all of the processing to automatically monitor the voice session, but does not describe automatically engaging the supervisor into the transaction as a participant in the transaction. The supervisor himself is not engaged in the transaction as a participant, only the processing power of the supervisor terminal is being used, not to engage the supervisor, but to perform the preceding step of automated silent monitoring. Thus, a transfer of the automatic monitoring function from one terminal to another is described, not the joining or engagement of an additional participant into the transaction. Therefore, Shaffer does not disclose automatically engaging or conferencing or doing so in response to the automatic monitoring, nor does it disclose automatic text or data message session monitoring (only voice monitoring).

The Office Action argues that Shaffer teaches automation because it teaches automatic voice monitoring and thus it would be obvious to automatically engage. However, if Shaffer teaches automation then it teaches away from the claimed automatic engagement because rather than using automatic engagement, it teaches to rely on manual engagement. Thus, Shaffer teaches that one should not use automation for this process, and it would be improper to assume this feature based effectively on the teachings of the applicant’s application. Additionally, because there is no teaching in Shaffer of automatic engagement there is no teaching of the engagement being in response to the monitoring as claimed. Thus, no reference has been cited which teaches automatic engagement, or doing so in response to the automatic monitoring. Thus, independent claims 1, 11, and 20 are distinguishable over the cited references, as are dependent claims 2-10 and 12-19.

Claim 10 has been rejected as being obvious over Fedorov and Shaffer, and further in view of Miloslavsky. Miloslavsky merely discloses routing of e-mails to agents. Thus Miloslavsky concerns the act of routing which occurs prior to the data session between the two parties. Miloslavsky thus merely establishes that incoming e-mails and routing of these to an agent in a call center was disclosed but does not teach or suggest that e-mails can be substituted for voice communications in an audio listening system such as Fedorov. The Office Action cited Col. 36, lines 9-36 as disclosing automatic inspection of content of data messages. However, this passage merely describes that e-mails may be diverse and describes automatic routing the e-mails (again, this is prior to the session or transaction between the two parties becoming established), but there is no disclosure of monitoring established or on-going e-mail or data

sessions between two parties (i.e., a session established between agent and customer can only occur after the agent has been selected by the router). There is no mention of the claimed automatic inspection of the contents of the e-mail to detect problem phrases in Miloslavsky, only a description of routing the e-mails. Further, the combination of Fedorov and Shaffer with Miloslavsky would simply provide a call center which can receive both voice and e-mail wherein the supervisor could decide to manually barge in to listen to the voice. Listening to the data messages such as e-mails would merely result in noise with no meaning to the supervisor, and routing discussions have nothing to do with monitoring of on-going agent-customer sessions. Thus, the combination of Fedorov with Miloslavsky is improper, and even if combined does not teach or suggest automatic monitoring of e-mails during established transactions, or automatic engaging of supervisor into the transaction based upon the monitoring and detecting problematic phrases.

Accordingly, independent claims 1, 11, and 20 are believed to be distinguishable over the combination of Fedorov, Miloslavsky, Eilbacher and Shaffer because none of these references discloses monitoring text data sessions established between two parties and none discloses automatically engaging the supervisor into the transaction or doing so in response to the automatic monitoring. Therefore, independent Claims 1, 11, and 20 are believed to be neither anticipated nor rendered obvious by any combination of the cited references. In addition claims 2-10, and 12-19 are dependent upon now allowable Claims 1, 11, and 20, and therefore are also believed to be in allowable form.

Claim 8 claims engagement caused by deviation in stress levels from a prior period (see e.g., paragraph 0030, lines 10-13). Claim 12 claims video monitoring to assist in determining stress levels in an internet transaction (see e.g., paragraph 0034, lines 8-10). The cited passages in Col. 4 and Col. 7-8 of Shaffer does not describe measuring a change of stress level based on deviation from a preceding time only various indication of inefficiency. The Fedorov citation at Col. 7, lines 50-54 describe live supervisor monitoring not automatic monitoring. These features are also not disclosed by the cited references and therefore are believed to be further distinguishable.

Regarding claim 3, the Office Action asserts that Fedorov discloses the third party review of text or e-mail before they are sent, in Col. 8, lines 8-20 and Col. 11, lines 21-24. However, Col. 8 merely generally describes ability of supervisor to look at an agent's screen, and Col. 11 merely generally describes monitoring e-mails, etc., but neither passage mentions the claimed

review of a text or e-mail message before they are sent or being engaged to do so based upon the automatic monitoring. Regarding claims 4, 5, 6, 7, 14, 15, 16, and 17, the Office Action asserts that Federov discloses at Col. 7, lines 50-54 and Col. 8, lines 26-33, a third party engages in a background, foreground or with one or both parties. However, Federov merely describes manual monitoring of voice calls by a supervisor but does not disclose automatic engaging into the background or foreground, or with a party of an ongoing data session or doing so automatically in response to automatic monitoring. Federov only discloses manual monitoring which precludes automatic engagement in response to automatic monitoring. Similarly, Col. 7, lines 66-Col. 8, line 5 of Shaffer merely describes manually engaging but not automatically or in response to automatic monitoring. Regarding claim 13, the Office Action asserts that Eilbacher at Col. 11, lines 26-50 discloses the claimed detecting key word use by a customer. However, the cited passage merely describes use of keyword recognition to determine a potential unsatisfactory customer experience but there is no mention of determining a desire by the customer to deal with a supervisor. The Office Action also cited Elazar at Col. 10, line 66 to Col. 11, line 6, as disclosing detecting desire to deal with a supervisor. However, this passage does not teach or suggest doing such detection to then engage the supervisor in response. Rather, Elazar teaches away from the claimed invention by teaching recording of the voice conversation (not text) instead of engaging the supervisor. Thus, the claims are believed to be further distinguishable over the cited references.


As discussed above, claims 1-20 are now in allowable form and are not anticipated or rendered obvious by any combination of the cited references. Therefore, allowance of claims 1-20 is believed to be in order and such action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the extension of time fee, RCE fee, petition fee, extra claims fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check

being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

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